

Wisconsin Farmland Preservation Credit

**For Use in Preparing
2005 Claims**

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IMPORTANT CHANGE

A condition specifying that neither the claimant nor the claimant's spouse may claim the veterans and surviving spouses property tax credit has been added to Part III, WHO MAY CLAIM A FARMLAND PRESERVATION CREDIT (page 3).

I. GENERAL INFORMATION

The purpose of this publication is to explain the tax aspects of the Farmland Preservation Credit Program. This program was established in 1977, to preserve Wisconsin farmland through a system of credits and land use restrictions.

If you are the owner of farmland, you can qualify for a farmland preservation credit in either of two ways: (1) you sign a farmland preservation agreement in which you agree not to develop your land for a specific time, or (2) your land is zoned for exclusive agricultural use.

If you qualify, you may claim the credit by filing a farmland preservation credit claim, Schedule FC, with the Wisconsin Department of Revenue. However, you must meet all of the conditions listed under Part III on page 3, in order to receive any credit. The maximum farmland preservation credit an owner of farmland can receive per year is \$4,200.

CAUTION

The information in this publication reflects the interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of December 1, 2005. It applies to farmland preservation credit claims filed for the taxable year 2005, except where otherwise indicated. Laws enacted after this date, new administrative rules, and court decisions may change the interpretations in this publication.

II. DEFINITIONS

A. Owner

An owner of farmland includes any of the following: (a) an individual, (b) a corporation, including a publicly traded partnership or a limited liability company (LLC) treated as a corporation, incorporated in Wisconsin, (c) a grantor of a revocable trust, (d) a qualifying trust, (e) an estate, (f) each member of a partnership or association having a joint or common interest in land, (g) each member of an LLC that is treated as a partnership, (h) each shareholder of a tax-option (S) corporation, (i) the vendee under a land contract, and (j) a guardian on behalf of a ward.

When farmland is subject to a life estate, the person who has an ownership interest and is operating the farm and paying the property taxes is considered the owner. When property is transferred during a claim year by a method other than a sale, such as through a gift, divorce, death, bankruptcy, foreclosure, or repossession, the owner of the property on the property tax levy date is considered the owner.

An owner does not include the estate of an individual who is a nonresident on the date of death, a trust created by a nonresident, a trust that receives Wisconsin real property from a nonresident, or a trust in which a nonresident grantor retains a beneficial interest.

B. Household

Household means an individual, his or her spouse if married, and all dependents while they are under age 18.

C. Household Income

For *individuals*, household income means the income of an individual, the income of his or her spouse if married, and the farm income of all dependents while they are under age 18. "Farm income" is the amount of income, including wages, earned on the farm for which the claim applies.

Household income includes all income that is reportable for Wisconsin income tax purposes except nonfarm income of dependents, plus certain items

excluded or deducted in computing taxable income and certain types of nontaxable income.

The excluded or deducted items include nonfarm business losses (exclusive of depreciation, amortization, depletion, and intangible drilling expenses), depreciation (except the first \$25,000 of farm depreciation per household), amortization, capital gains, capital loss carryforward, gain on the sale of a personal residence excluded for federal tax purposes (except nonrecognized gain from an involuntary conversion, such as destruction or condemnation), contributions to IRAs, self-employed SEP plans, and SIMPLE plans (except nondeductible contributions and rollover contributions), contributions to qualified plans, intangible drilling costs, and depletion allowances.

The types of nontaxable income include nontaxable unemployment compensation, nontaxable social security and SSI payments (before any deduction of Medicare premiums), court ordered support money, veterans' pension and disability payments, pensions, IRA, SEP, and SIMPLE payments, annuities, railroad retirement benefits, interest on U.S. securities, nontaxable interest on state and municipal bonds, workers' compensation, loss of time insurance, cash public assistance, county relief, Wisconsin Works payments, scholarships, fellowships, grants, nontaxable military compensation or cash benefits, a housing allowance provided to a member of the clergy, income of a nonresident or part-year resident spouse, nontaxable deferred compensation, nontaxable income from sources outside Wisconsin, nontaxable income of Native Americans, and a rent reduction or free rent for a resident manager.

Nontaxable amounts added to income on a farmland preservation credit claim for a previous year and repaid may be subtracted from household income in the year repaid. Scholarship and fellowship income included in taxable income may be subtracted from household income to the extent that same income was also included on a farmland preservation credit claim for a previous year. Adjust your household income by the amount of any repayment or current year's scholarship and fellowship income previously included, and attach a written explanation for the adjustment to Schedule FC.

For *corporations (except tax-option (S) corporations)*, household income includes: (1) income, as defined under the Wisconsin Statutes, that is reportable for Wisconsin franchise or income tax purposes; (2) any farm business loss carryforward allowed; (3) depreciation claimed (except the first \$25,000 of farm depreciation); (4) all nonfarm business losses (exclusive of depreciation); and (5) the household income of each corporate shareholder (including the shareholder's spouse and dependents while under age 18) of record at the end of the corporation's taxable year. (See the preceding definition of household income for individuals.)

To total the corporate shareholders' household income, you should complete Worksheet 4 (Computing Corporation Shareholder Income), which appears on page 14 in the instructions for Schedule FC.

For *trusts and estates*, household income has the same meaning as for individuals; however, household income is not reduced for income distributable to the trust's or estate's beneficiaries.

D. Gross Farm Profits

Gross farm profits means gross receipts from the land's agricultural use, less the cost or other basis of livestock or other items that were purchased for resale and sold or otherwise disposed of during the taxable year. Gross farm profits include the fair market value, at the time of disposition, of payments in kind received for placing land in federal programs.

Gross farm profits do **not** include receipts from renting the land, the fair market value of crops grown but not sold during the year, fuel tax credits or refunds, or a previous year's farmland preservation or farmland tax relief credit.

"Agricultural use" includes beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; and vegetable raising. Agricultural use also includes placing land in federal programs in return for payments in kind,

and owning land of which at least 35 acres are enrolled in the Conservation Reserve Program.

III. WHO MAY CLAIM A FARMLAND PRESERVATION CREDIT

Individuals (including shareholders of tax-option (S) corporations, partners, members of LLCs treated as partnerships, and grantors of revocable trusts), corporations other than tax-option (S) corporations, publicly traded partnerships or LLCs treated as corporations, qualifying trusts, and estates may qualify for a farmland preservation credit for 2005 if *all* of the following conditions are met:

1. a. At the end of the taxable year, your farmland must be subject to a certified zoning ordinance; or
 - b. You must have applied for a farmland preservation agreement, or a transition area agreement, before July 1, 2005 and the agreement must have been executed. (An agreement is considered executed on the date the original signed contract is mailed or delivered to the Wisconsin Department of Agriculture, Trade and Consumer Protection for signing on behalf of the state.)

If your farmland preservation agreement or transition area agreement expired in 2005 and was not extended, it must have expired on or after July 1, 2005.

2. a. An individual must be a resident of Wisconsin for the entire taxable year. The taxable year may be a calendar year (January 1 through December 31) or a fiscal year, but it must be for the same period as your individual income tax return.
 - b. A corporation must be organized under the laws of Wisconsin.
3. Neither homestead credit nor the veterans and surviving spouses property tax credit is claimed for the taxable year by either you or your spouse.
4. The 2004 property taxes for the property on which the claim is based must have been paid in full, unless you have a farmland preservation agreement

executed before May 17, 1988 *and* you choose to use the prior year's law method to determine your credit (see Part VI.B on page 6).

5. The Wisconsin farmland on which the claim is based must be at least 35 acres, and you or any member of your *household* must be the *owner* (see Parts II.A and II.B on page 1, for definitions of household and owner) of the farmland during the taxable year.
6. The farmland on which your claim is based must have produced at least \$6,000 of *gross farm profits* (see Part II.D on page 2 for definition) during the taxable year 2005 or at least \$18,000 in gross farm profits during the taxable years 2003, 2004, and 2005 combined. However, if at least 35 acres of your farmland were enrolled in the Conservation Reserve Program, you do not have to meet this gross farm profits requirement, unless your farmland preservation agreement was executed before May 17, 1988 *and* you choose to use the prior year's law method to determine your credit (see Part VI.B on page 6).

If you rent out your farmland, the renter's gross farm profits produced from your farmland are used to satisfy this requirement.

Gross farm profits do not include the fair market value of crops grown but not sold during the year or receipts from renting the land.

7. You must not have been notified that you are in violation of a soil and water conservation plan or standards for any farmland. However, if you receive a notice of cancellation of the noncompliance before the deadline for filing your claim, you may then file a claim by the deadline, provided the other conditions are met.

Only one member of a *household* (see Part II.B on page 1 for definition) may claim the credit. If two or more members of the household each qualify (for example, where a husband and wife are married filing separate returns), they must determine between themselves who will claim the credit.

Partners, members of LLCs treated as partnerships, tax-option (S) corporation shareholders, and grantors of

revocable trusts must file for this credit as individuals on their individual income tax returns.

Corporations other than tax-option (S) corporations must file for this credit on the corporation franchise or income tax return. This includes publicly traded partnerships and LLCs treated as corporations.

The trustee of a qualifying trust or the personal representative of an estate must file for this credit on the trust or estate tax return.

IV. HOW TO FILE A CLAIM

The farmland preservation credit is claimed on Schedule FC, which is available from any Wisconsin Department of Revenue office. Attach to your 2005 Schedule FC copies of your 2005 property tax bills and whichever of the following documents pertain to your farmland:

1. Zoning certificate. If you submitted a zoning certificate with a previous year's farmland preservation credit claim and nothing on it has changed, you do not need to attach another one to your 2005 claim. However, before you file your claim you must notify the county land conservation committee that you intend to file a 2005 Schedule FC. You must also check the box on Schedule FC, line 19, certifying that all of the information on the previously submitted zoning certificate is still applicable, and that you have notified the county land conservation committee that you intend to file a 2005 Schedule FC.

If you did not submit a zoning certificate with a previous year's claim or changes occurred during the claim year, attach a copy of your zoning certificate, certified for the claim year (signed by both the zoning authority and the county land conservation committee authority). Changes include a sale, purchase, or rezoning of part or all of your land, or a change in ownership, parcel numbers, or acreage;

2. Farmland preservation agreement (copy, not original). If you have an agreement that was extended to 25 years, attach a copy of the executed extension agreement. Also attach a copy of the original agreement if the parcel numbers are not shown on the extension agreement. Include Exhibit "A";

3. Statement of transfer of property subject to farmland preservation agreement (copy, not original). Also attach a copy of the original agreement if the parcel numbers are not shown on the transfer agreement. Include Exhibit "A";
4. Parcel number certificate (copy, not original);
5. Transition area agreement (copy, not original);
6. Closing statement signed by both the buyer and the seller, and the deed or land contract relating to the purchase or sale, if any of the farmland on which the claim is based was purchased or sold during the claim year (copies, not originals);
7. Document to verify your percentage of ownership in the property;
8. Statement signed by your county treasurer, indicating the date your 2004 property taxes were paid in full, if any of your 2005 property tax bills show unpaid prior year taxes.

Note: Incomplete claims or claims without proper attachments may be questioned. Be sure your claim is complete so your credit is not delayed.

Schedule FC should be attached immediately behind your Wisconsin individual income tax form, corporation franchise or income tax form, or trust or estate tax form that is filed with the Wisconsin Department of Revenue.

However, if you have already filed your 2005 Wisconsin tax return and later decide to file a claim for farmland preservation credit for the same taxable year, do the following:

- Complete an amended tax return and attach Schedule FC to it.
- Write "Tax Return Previously Filed" at the top of Schedule FC.
- Include a complete copy of your 2005 Wisconsin and federal tax return, marked "Copy."
- Mail them to the address shown on the tax return.

Electronic Filing: Individual farmland preservation credit claimants – You can file your Wisconsin Form 1

and Schedule FC electronically. If you file electronically, mail all of the required Schedule FC attachments, along with a completed Form W-RA, *Required Attachments for Electronic Filing*, to Farmland Preservation Unit, Wisconsin Department of Revenue, P.O. Box 8967, Madison, WI 53708-8967.

V. WHEN A CLAIM MUST BE FILED

Your 2005 farmland preservation credit claim may be filed at any time up to four years after the unextended due date of your 2005 tax return. For calendar year filers, the deadline for filing a 2005 Schedule FC is April 15, 2010 (March 15, 2010 for corporations). This filing deadline applies whether you compute your credit using the current year's law or the prior year's law method.

VI. HOW MUCH CREDIT IS ALLOWABLE

The maximum amount of farmland preservation credit you can receive is \$4,200. Generally, the higher your property taxes, the higher the credit, and the lower your *household income* (see Part II.C on page 1 for definition), the higher the credit. Only the first \$6,000 of net property taxes levied in 2005 on farmland and improvements on which a claim is based may be used in computing the amount of credit available on a 2005 claim.

"Net property taxes" are the net real estate taxes after state aids, school tax credits, and the lottery and gaming credit, if applicable. Net property taxes do not include personal property taxes, special assessments, delinquent interest, charges for services, dog license tax, or tax for managed forest land, woodland, or forest cropland. Property taxes are "levied" on the date the property tax roll is delivered to the local treasurer for collection, usually in early December of each year.

If you sold property on which the claim is based during the taxable year, you may claim only the portion of property taxes prorated to you in the closing statement pertaining to the sale. If no property taxes are prorated in the closing statement, you may not use those property taxes in your computation. If you purchased property on which the claim is based during the taxable year, you may claim the total net property taxes less the amount, if any, allocated to the seller in the closing statement.

If any property on which the claim is based is owned by a partnership, LLC treated as a partnership, or tax-option (S) corporation, or is co-owned with persons or entities other than a member of your household, you may claim only the portion of property taxes that reflects the ownership percentage of you and your household. If the property tax bills list names other than yours or a member of your household's as the owner, and either you did not verify your ownership with a previous year's Schedule FC or your ownership percentage has changed since 2004, submit verification of your percentage of ownership in the property.

If you have a property tax bill that includes land located partly inside and partly outside an exclusive agricultural use district or land that is not subject to your farmland preservation agreement, you must prorate the property taxes to arrive at the amount to use for farmland preservation credit. To do this proration, you may use Worksheet 3 (Property Tax Proration), which appears on page 13 in the instructions for Schedule FC.

A. Credit Based on the Current Year's Law Method

Farmland preservation credit is generally computed using the law in effect at the end of the taxable year (the "current year's law" method). The table below contains examples of the amount of credit claimants can receive based on various household income amounts as computed under the current year's law method, and various net property taxes.

| Household Income (Schedule FC, Line 10) | Net Property Taxes (Schedule FC, Line 11b) | Credit (From Table 2) |
|--|---|-----------------------------|
| \$ 5,000 | \$2,000 | \$1,791 |
| 10,000 | 2,000 | 1,484 |
| 15,000 | 4,000 | 2,638 |
| 20,000 | 4,000 | 2,261 |
| 25,000 | 5,000 | 2,361 |
| 30,000 | 6,000 | 2,115 |

A claimant will receive either 70%, 80%, or 100% of the credit shown in the above table, depending on what action the county has taken on the agricultural preservation plan or zoning ordinance. The Wisconsin Department of Agriculture, Trade and Consumer Protection will be able to inform you of the percentage you qualify for.

Note: If you have farmland in two or more municipalities, part of the farmland may qualify for one percentage of the credit and part may qualify for a different percentage of the credit. If this is the case, you should compute your farmland preservation credit using the “multiple municipality proration” method, by completing Worksheet 2 (Multiple Municipality Proration), which appears on page 12 in the instructions for Schedule FC.

B. Credit Based on the Prior Year’s Law Method

If your claim is based on farmland subject to a farmland preservation agreement that was executed before August 15, 1991, you may compute your 2005 credit using either (1) the current year’s law method as explained in Part A, or (2) the law as it existed on the date your agreement was executed (the “prior year’s law” method). If you had an agreement that was extended to 25 years, the executed date on your original agreement is the required date. You may claim whichever credit is the largest.

CAUTION: If you had an “initial agreement” that expired September 30, 1982, and was replaced with a long-term agreement, you must use the executed date on the long-term agreement to determine whether you are eligible to compute your claim under the prior year’s law method. The executed date on the initial agreement may not be used.

To determine the amount of credit available by using the prior year’s law method, you should complete Worksheet 1 (Computing 2005 Farmland Preservation Credit Based on the Prior Year’s Law Method), which appears on page 11 in the instructions for Schedule FC. If you use the prior year’s law method *and* your agreement was executed before May 17, 1988:

- (a) the requirement that your 2004 property taxes must have been paid in full does not apply; and
- (b) the gross farm profits requirement *does* apply, even if 35 acres or more of your farmland were enrolled in the Conservation Reserve Program.

C. Special Minimum Credit

Regardless of the amount of your household income, you are entitled to a minimum farmland preservation credit if you meet all of the other conditions (see Part III on page 3), and you compute your credit using the current year’s law method. The amount of credit available is 10% of your property taxes. Since allowable property taxes are limited to \$6,000, the maximum credit available under this provision is \$600 (\$6,000 x 10%).

VII. RECEIPT OF CREDIT IS INCOME

A farmland preservation credit that you receive **may** be includable as income for federal income tax purposes, as explained in Part A. However, regardless of whether the credit is includable for federal tax purposes, the full amount of any farmland preservation credit received **must** be included in taxable income for Wisconsin income tax purposes, as explained in Part B. A farmland preservation credit is considered “received” whether it is paid to you by check or direct deposit, credited against your franchise or income tax, or offset against a delinquent tax or other debt on the department’s records.

A. Federal Treatment

If you receive a farmland preservation credit, the federal tax treatment of the credit depends on whether you take a deduction for the property taxes upon which the credit is based, and when this deduction is taken. If you already deducted your property taxes on your federal tax return, you must include the credit in gross income to the extent of any federal income tax benefit received (see Example 1 in Part C). If you have not deducted and will not deduct your property taxes on your federal tax return, you have received no tax benefit and are not required to include the credit in gross income. If you will be deducting your property taxes on your federal tax return for the same year the credit is received, you must reduce the deduction by the amount of the credit (see Example 2 in Part C).

B. Wisconsin Treatment

The total amount of farmland preservation credit you receive must be included in taxable income on your Wisconsin individual income tax return, cor-

poration franchise or income tax return, trust return, or estate tax return for the year in which it is received. Any portion not included in federal adjusted gross income (the starting point for determining Wisconsin taxable income) must be included as an addition to federal income (for example, on line 4 of the 2005 Wisconsin Form 1).

Partners, members of LLCs treated as partnerships, and tax-option (S) corporation shareholders must report their credit received as other income on their individual income tax returns. The credit should not be reported as income on the tax return of the partnership, LLC, or tax-option (S) corporation.

Your farmland preservation credit will decrease any income tax due or increase any income tax refund. The full amount of the credit allowed, rather than the net amount received, must be included in Wisconsin taxable income. As an illustration, assume that on your 2004 Wisconsin Form 1 you have a tax liability of \$600 and are allowed a farmland preservation credit of \$1,000, resulting in a refund check of \$400, which you receive in 2005. The total credit of \$1,000 is taxable income on your 2005 Wisconsin income tax return, not just the \$400.

C. Examples

Example 1: You file a 2004 farmland preservation credit claim based on 2004 property taxes of \$5,500, which you paid in 2004. You deducted the taxes on your 2004 federal return and received a tax benefit from the deduction. You receive a 2004 farmland preservation credit of \$1,700 in 2005.

Federal - You report the \$1,700 farmland preservation credit received in 2005 as other income.

Wisconsin - The \$1,700 credit is included in your federal adjusted gross income, which is the starting point for determining Wisconsin taxable income. No adjustment of that amount is required for Wisconsin purposes.

Example 2: You file a 2004 farmland preservation credit claim based on 2004 property taxes of \$5,000, which were paid in 2005. Of the property taxes on which the claim is based, 85% (\$4,250) are farm taxes deductible on federal Schedule F, and 15% (\$750) are personal taxes deductible on federal

Schedule A. You receive a 2004 farmland preservation credit of \$1,600 in 2005.

Federal - You report the farmland preservation credit of \$1,600 received in 2005 on your 2005 federal income tax return by reducing the farm tax deduction by 85% of the credit and the itemized deduction for property taxes by 15% of the credit. Your Schedule F deduction of \$4,250 is reduced by \$1,360 (85% of \$1,600) to \$2,890, and your Schedule A deduction of \$750 is reduced by \$240 (15% of \$1,600) to \$510.

Wisconsin - You report the farmland preservation credit of \$1,600 received in 2005 on your 2005 Wisconsin income tax return by bringing \$1,360 forward as federal adjusted gross income (the farm property tax deduction, which is reduced from \$4,250 to \$2,890 on federal Schedule F), and by adding \$240 as an addition to federal income on Form 1 (this is the 15% of the credit used to reduce the itemized deduction for property taxes on federal Schedule A, which is not brought forward to Wisconsin Form 1).

VIII. MARRIAGE, DIVORCE, OR SEPARATION OCCURS DURING THE YEAR

A. Marriage Occurs During the Year

Only one 2005 farmland preservation credit claim may be filed per *household* (see Part II.B on page 1 for definition). In determining household income, you must include both spouses' incomes for the entire year. The property taxes to be used in the credit computation include both spouses' total applicable farm property taxes for the entire year.

B. Divorce Occurs During the Year

Both spouses may file a farmland preservation credit claim if they are legally separated under a **final** decree of separate maintenance or divorce, and both spouses have an ownership interest in the farm on the tax levy date of the claim year.

In determining household income, include the claimant's income for the entire year and none of the ex-spouse's income. However, note that the

claimant's income for the portion of the year before the divorce will include one-half of the combined marital property income. Innocent spouse provisions may apply for a spouse who had no control over the marital property income and no notification of it. See Wisconsin Publication 109, *Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2005*, for more information.

The property taxes to be used in the credit computation include the claimant's ownership percentage of applicable farm property taxes for the entire year and no portion of the ex-spouse's property taxes.

C. Spouses Separated

If spouses are separated during any portion of the year but are not legally separated under a **final** decree of separate maintenance or divorce, they are married and the rules for married claimants apply. See Part A.

IX. POSSIBLE PAYBACK OF FARMLAND PRESERVATION CREDITS

Under certain circumstances, the owner of the farmland can become responsible for paying back part or all of the farmland preservation credits received. A payback will be required under the following circumstances:

1. Your farmland preservation agreement is terminated before its normal expiration date, for a reason other than death or total and permanent disability, or
2. Your farmland or a portion of your farmland is rezoned out of an exclusive agricultural use district.

Further information on this can be obtained from your county extension office or from the Wisconsin Department of Agriculture, Trade and Consumer Protection.

X. ADDITIONAL INFORMATION

If you have any questions regarding agricultural zoning, applying for a farmland preservation agreement, or possible paybacks of farmland preservation credits, you may contact your local county extension office or zoning administrator, or write or call the Wisconsin Department of Agriculture, Trade and Consumer Protection at:

Farmland Preservation Program
DATCP
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4634

If you have any questions about the tax aspects of the farmland preservation program, or to obtain copies of Schedule FC and its instructions, call or visit any Wisconsin Department of Revenue office. There is no charge for this assistance. Your local telephone directory may show the location and telephone number of the office nearest you. If you wish, you may also contact the department by any of the following methods:

Write. Wisconsin Department of Revenue
Farmland Preservation Credit Unit
Mail Stop 5-144
P.O. Box 8906
Madison, WI 53708-8906

Telephone. . . (608) 266-2442
TTY Madison (608) 267-1049
TTY Milwaukee (414) 227-4147

Fax (608) 267-0834

E-Mail farmland@dor.state.wi.us

Internet web site www.dor.state.wi.us – click on “FAQs” (frequently asked questions)